

NOT FOR PUBLICATION

SEP 07 2004

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

SANTIAGO NEGRETE DURAN,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

Nos. 02-71337
02-74352

Agency No. A75-252-111

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted August 24, 2004
San Francisco, California

Before: SCHROEDER, Chief Judge, GOODWIN, and TASHIMA, Circuit Judges.

Two petitions seek review of the Board's denial of suspension of deportation under former § 244(a)(1) of the INA for failure to demonstrate extreme hardship. This court's jurisdiction is governed by IIRIRA's transitional rules, which provided, in

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pertinent part that “there shall be no appeal of any discretionary decision under section . . . 244 [of the INA].” IIRIRA § 309(c)(4)(E).

Petitioner seeks to disguise his claim as a denial of due process, and thus obtain the forbidden review of a discretionary decision by the Board. However, he cites no constitutional due process defect in the Immigration Judge’s (“IJ”), or the Board’s, conduct of the proceedings. He relies entirely on his own opinion that the proceedings could not have satisfied due process because they did not reach the result he wanted.

The IJ and the Board examined the evidence and concluded that his medical problems, which did not interfere with his ability to work, were not of such a nature that his return to Mexico would amount to extreme hardship. This decision, while contrary to his claim, did not amount to a denial of due process within the meaning of *Larita-Martinez v. INS*, 220 F.3d 1092, 1095 (9th Cir. 2000).

The petitions are DENIED.